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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,808	05/12/2006	Andrew Montgomery	MOAE0101PUSA	7006

22045 7590 02/03/2010
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EXAMINER

SKURDAL, COREY NELSON

ART UNIT	PAPER NUMBER
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3782

MAIL DATE	DELIVERY MODE
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02/03/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,808	Applicant(s) MONTGOMERY, ANDREW	
	Examiner COREY N. SKURDAL	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/12/09 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clements (US 6,024,265) in view of Thompson (US 6,325,262).

Clements discloses a sack substantially as claimed, including: a pliable body portion 1 for receiving the material, the body portion having a lower base portion 5, a wall 3 and an upper opening for introducing the material into the sack and removing it therefrom; a cover 6 exterior to the body portion and fixed thereto proximate the opening and having a cover fastener (Figure 2) for releasably fastening to the body portion proximate the base whereby the cover covers the opening, a plurality of compression straps 25 connect to the body proximate the base portion and releasably

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cooperable with first connectors 26 located proximate the upper opening, the cover fastener and compression straps being operable to compress material in the body portion; and a pair of shoulder straps 11, separate from the compression straps, connected to the wall adjacent two of the first set of connectors and terminating in a second set of connectors (unlabeled but seen in Figures 1 and 6), wherein the second set of connects are **capable** of the functional use claimed, being cooperable with the compression straps when the compression straps are not used with the first connectors.

Clements does not disclose a porous pliable panel member that creates a sleeve.

However, Thompson teaches that it is well known to provide a backpack 100 having a wall means 110 and shoulder straps 120 with a porous pliable panel member 130 between the shoulder straps and attached to the wall means to form a sleeve 131 on the back of the back pack, whereby the sleeve can also be used to store a stiffening member 150. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the backpack of Clements with a wall between the shoulder straps having a breathable barrier/sleeve as taught by Thompson in order to make the sack more comfortable when carried as a backpack by the wearer. In doing so, a sleeve would be defined which could be used to stow a stiffening member, a hydration bladder, or the shoulder straps when not in use.

3. Regarding claim 3-5, Clements teaches a drawstring 7, a substantially cylindrical body, a cap like cover 6, and wherein the panel taught by Thompson is porous and pliable.

Response to Arguments

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4. Applicant's arguments with respect to claims 1, 3-6, and 9 have been considered but are moot in view of the new ground(s) of rejection

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY N. SKURDAL whose telephone number is (571)272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. N. S./
Examiner, Art Unit 3782

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/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782